

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**ATELIER PARTNERS, CYCLONE  
ASSETS, SCOTT J. ESPARZA, BARRY  
FEINER, GARY FROMM, JOSEPH M.  
HALLER, as trustee for the Joseph E.  
Haller Family Trust, KLEINWORT  
BENSON (USA), INC., DRESDNER  
KLEINWORT HOLDINGS, INC., GERALD  
C. KORTH, PORTFOLIO RECOVERY  
ASSOCIATES, LLC, TAG VIRGIN  
ISLANDS, INC., ACCREDITED  
COLLECTION SERVICE, INC., and  
MSW CAPITAL, LLC,**

**Defendants.**

**CASE NO. 8:12CV80**

**ORDER TO  
SHOW CAUSE**

Fed. R. Civ. P. 12(h)(3) provides: "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action."

In the process of reviewing the pending claims in the above-captioned action, the Court has attempted to verify its subject matter jurisdictions over any remaining claims by defendants against the United States.

The Court's original jurisdiction over this case appears to have been founded on 28 U.S.C §§ 1340 and 1345, and 26 U.S.C. ("I.R.C.") §§ 7402 and 7403. Sections 1340 and 1345 of Title 28 give the federal district courts original jurisdiction over civil actions "commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress," §1345, and arising "under any Act of Congress

providing for internal revenue . . . .” §1340. I.R.C. § 7402(e) gives the federal district courts original jurisdiction over “any action brought by the United States to quiet title to property if the title claimed by the United States to such property was derived from enforcement of a lien under this title.”

The United States brought this action against Michael S. Luther and Laura Dodge Luther to foreclose on its federal tax liens against real property allegedly acquired by Laura Dodge Luther, as Michael S. Luther’s nominee. In bringing this action, the United States sought to satisfy, or partly satisfy, Michael S. Luther’s unpaid tax obligations.

Atelier Partners; Cyclone Assets; Scott J. Esparza; Barry Feiner; Gary Fromm; Joseph M. Haller, as trustee for the Joseph E. Haller Family Trust; Kleinwort Benson (USA), Inc.; Dresdner Kleinwort Holdings, Inc.; Gerald C. Korth; Portfolio Recovery Associates, LLC; TAG Virgin Islands, Inc.; Accredited Collection Service, Inc.; and MSW Capital, LLC, were all made parties to this action pursuant to I.R.C. § 7403 as persons that may claim an interest in the real property against which the United States sought foreclose to satisfy federal tax liens.

The United States has dismissed with prejudice all claims against Michael S. Luther and Laura Dodge Luther. (Order of Dismissal, Filing No. 219.) Therefore, it appears the Court no longer has jurisdiction over claims against the United States by the remaining defendants made parties to this action pursuant to I.R.C. §7403.

Accordingly,

IT IS ORDERED:

On or before May 5, 2014, each party with any pending claim will file a memorandum showing cause why the claim should not be dismissed by this Court due to lack of subject-matter jurisdiction, and why this Court should not enter a final judgment in the above-captioned matter.

Dated this 21<sup>st</sup> day of April, 2014.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge